

Office of Thrift Supervision, Treasury

§ 545.93

Office during regular business hours, unless such information is exempt from public disclosure.

(2) *Submission of application or notice.* A Federal savings association must comply with § 545.93 of this part and must file its application or notice within the time frame in § 516.60 of this chapter.

(3) *Submission of comments.* Commenters may submit comments on the application or notice in accordance with the procedures specified in subpart C of part 516 of this chapter.

(4) *Meetings.* The OTS may arrange informal or formal meetings in accordance with the procedures specified in subpart D of part 516 of this chapter.

(e) *Approval of branch application.* (1) The OTS shall approve an application only if the overall policies, condition, and operation of the applicant afford no basis for supervisory objection and the proposed branch will open within twelve months of approval unless otherwise allowed by the OTS. In considering whether to approve an application, the OTS will assess and take into account an association's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, pursuant to part 563e of this chapter; assessment of an association's record of performance may be the basis for denying an application.

(2) An application shall be deemed to be approved 30 days after notification that the application is complete, unless the OTS suspends the applicable processing time frames under § 516.190 of this chapter, or the OTS objects to the application on the grounds set forth under paragraph (e)(1) of this section.

(f) *Approval of branch notice.* A notice filed by a Federal savings association that qualifies for expedited treatment must be deemed to be approved 30 days after its filing with OTS, unless OTS takes one of the actions described at § 516.200 of this chapter. OTS will apply the review standards set forth in paragraph (e)(1) of this section; or OTS determines to process the filing as an application under § 516.200(b) of this chapter. If the OTS suspends the applicable processing time frames, the savings association may not open a branch until

the OTS provides a notification of its approval.

(g) *Offices not requiring prior written approval.* A Federal savings association may establish without prior approval a drive-in and/or pedestrian office opened in conjunction with an approved branch or home office of the association, located within 500 feet of a public entrance of that office and closer to that entrance than to a public entrance of any other SAIF-insured association, and the functions of which are limited to the ordinary functions performed at a teller-window.

(h) *Maintenance of branch office after conversion, consolidation, purchase of bulk assets, merger or purchase from receiver.* (1) An existing association which converts to a Federal savings association may maintain an existing office, and a Federal savings association that acquires offices through consolidation, purchase of bulk assets, merger or purchase from the receiver of an association may maintain any acquired office, except to the extent the approval by the OTS of the conversion, consolidation, merger, or purchase specifies otherwise.

(2) A Federal savings association may not file a branch application after having filed an application to merge or otherwise surrender its Federal charter, unless the merger or conversion application has been pending for at least six months.

[54 FR 49492, Nov. 30, 1989, as amended at 55 FR 13512, Apr. 11, 1990; 57 FR 14341, Apr. 20, 1992; 57 FR 37084, Aug. 18, 1992; 62 FR 64145, Dec. 4, 1997; 63 FR 65682, Nov. 30, 1998; 66 FR 13006, Mar. 2, 2001; 66 FR 65820, Dec. 21, 2001]

§ 545.93 Branching by Federal savings associations.

(a) *General.* A Federal association may branch in any state or states of the United States and its territories, except as provided in paragraph (b) of this section, subject to the requirements of paragraph (c) of this section.

(b) *Limitations.* No branching will be permitted under paragraph (a) of this section that will result in the following:

(1) Establishment or operation of a branch outside the state in which the

association has its home office in violation of section 5(r) of the Home Owners' Loan Act;

(2) Formation by any company of a multiple savings and loan holding company controlling savings associations in more than one state in violation of section 10(e)(3) of the Home Owners' Loan Act; or

(3) Acquisition of a savings association and the establishment and operation of new branches by such savings association in violation of section 13(k)(4) of the Federal Deposit Insurance Act.

(c) *Branching applications.* (1) *General.* Prior to opening a branch, an association must obtain approval of a branching application pursuant to § 545.92 of this chapter. The Office may approve or deny an application based on information available from any source and supervisory objection may be interposed at any point during the processing of the application. In granting supervisory clearance to an applicant, the Office will consider whether the policies, condition, and operation of the applicant are satisfactory and afford no basis for supervisory objection.

(2) *Regulatory capital.* For supervisory clearance, an association's regulatory capital should meet or exceed the minimum requirements established by law and applicable regulations of the Office upon acquisition or establishment of the proposed branch or branches, except as otherwise permitted under section 38(e)(4) of the Federal Deposit Insurance Act.

(3) *Community reinvestment.* Pursuant to the Community Reinvestment Act of 1977 (12 U.S.C. 2901), the Office encourages savings associations to help meet in an affirmative and continuing manner the credit needs of all communities in which they do business, including low- and moderate-income neighborhoods, consistent with safe and sound operation. The Office will evaluate an applicant's record under part 563e of this chapter, may deny an application based on the assessment of the association's CRA record, and may approve a branch application on the condition that the association improve specific aspects of its community investment-related practices and performance to the satisfaction of the Of-

fice. However, in most cases, commitments by an applicant to improve its record of compliance with the CRA shall not be regarded as sufficient to overcome a seriously deficient CRA record at the time of application.

(4) *Comment procedures.* Comments on applications for branches must be submitted in writing and factually documented. Comment procedures are set forth in subpart C of part 516 of this chapter, § 563e.29 (c) and (d) of this chapter, the OTS Application Processing Handbook, and other supervisory guidance issued by the OTS.

(5) *Expiration of approvals.* If an association does not open a branch within the time specified in the approval, and the Director or his or her designee finds that the association is not making a good-faith effort to open the branch promptly, the approval will be deemed to have expired and the association will be required to reapply if it wants to branch in that location.

(d) *Federal preemption.* This exercise of the OTS's authority is preemptive of any state law purporting to address the subject of branching by a Federal savings association.

[57 FR 12207, Apr. 9, 1992, as amended at 60 FR 66718, Dec. 26, 1995; 62 FR 64146, Dec. 4, 1997. Redesignated at 66 FR 65820, Dec. 21, 2001]

§ 545.95 Change of office location and redesignation of offices.

(a) *Eligibility.* A Federal savings association may change the permanent location of its home office or any approved branch office, or redesignate a home or branch office subject to the appropriate expedited or standard treatment procedures for establishing a branch office set forth in § 545.92 of this part.

(b) *Processing of application.* (1) Processing of an application for a change of office location or redesignation of a home or branch office shall follow the procedures set forth in § 545.92 of this part, except that:

(i) The applicant shall publish the required newspaper notice of application in the applicant's home office community, the community to be served by the new office, and the community where the office is to be closed or the